

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER JOSHUA LABRECK (#799461),

Plaintiff,

CASE NO. 2:14-CV-12025
JUDGE LAURIE J. MICHELSON
MAGISTRATE JUDGE PAUL J. KOMIVES

v.

SHERIFF STEPHENSON,
CAPTAIN HARNOIS and
JANE DOE JAIL NURSE,

Defendants.

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**ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S JUNE 12, 2014 MOTION
TO APPOINT COUNSEL (Doc. Ent. 7) and DIRECTING PLAINTIFF TO FURTHER
IDENTIFY DEFENDANT JANE DOE JAIL NURSE**

A. Background

Peter Joshua LaBreck (#799461) is currently incarcerated at the MDOC's Macomb Correctional Facility (MRF) in New Haven, Michigan, where he is serving a sentence imposed in Case No. 08-221460-FC (Oakland County). See www.michigan.gov/corrections, "Offender Search."

LaBreck is or has been a party to several other cases in this Court.¹ By way of background, it appears that LaBreck was incarcerated at the Midland County Jail from March 11,

¹See *LaBreck v. Esposito, et al.*, Case No. 5:11-cv-11328-JCO-PJK (E.D. Mich.) (dismissed on October 31, 2013); *LaBreck v. U.S. Department of Treasury, et al.*, Case No. 2:11-cv-10155-DML-MJH (E.D. Mich.) (dismissed with prejudice on February 12, 2013); *LaBreck v. Michigan Department of Treasury, et al.*, Case No. 2:13-cv-15275-LPZ-PJK (E.D. Mich.) (dismissed without prejudice on February 21, 2014); *LaBreck v. Michigan Department of Corrections, et al.*, Case No. 1:14-cv-10298-TLL-CEB (E.D. Mich.) (dismissed without prejudice on February 20, 2014); and *LaBreck v. Aarons Rentals, et al.*, Case No. 2:14-cv-10247-LJM-PJK (E.D. Mich.).

2014 until he was transferred on June 3, 2014 to another facility. *See* Doc. Ent. 19 at 8. In the instant case, filed pro se on May 20, 2014, he names as defendants Stephenson (Midland County Sheriff), Harnois (Midland County Jail Captain)² and Jane Doe (presumably a Midland County Jail Nurse). Doc. Ent. 1; *see also* Doc. Ent. 4 (Preamble).³

B. Service upon Defendants

The Court has granted plaintiff's motion to proceed in forma pauperis (Doc. Ent. 2) and granted plaintiff's motion for court-ordered service of the summons and complaint (Doc. Ent. 3). Doc. Ent. 12. On July 30, 2014, the U.S. Marshal acknowledged receipt of documents for service of process upon Stephenson and Harnois. Doc. Ent. 13.

On August 27, 2014, defendants Harnois and Stephenson's waivers were executed (Doc. Ent. 18); they filed an answer, affirmative defenses and demand for jury trial (Doc. Ent. 17); and appearances were entered on their behalf (Doc. Ent. 15-16). On September 15, 2014, defendants Stephenson and Harnois filed a motion to dismiss. Doc. Ent. 19.

To date, defendant Nurse Jane Doe has not appeared.

C. Pending Motion

Judge Michelson has referred this case to me for pretrial matters. Doc. Ent. 14. Currently before the Court is plaintiff's June 12, 2014 motion to be appointed counsel (Doc. Ent. 7), which he appears to have filed while still incarcerated at the Midland County Jail. *See* Doc. Ent. 7 at 3.

Upon consideration, plaintiff's June 12, 2014 motion to be appointed counsel (Doc. Ent.

²*See* <http://co.midland.mi.us/Sheriff/DivisionsandServices/Divisions/Administration.aspx> (visited Sept. 15, 2014).

³For whatever reason, the Civil Cover Sheet for this case lists LaBreck's address as MRF. Doc. Ent. 1 at 2.

7) is denied. To be sure, plaintiff does mention seeking assistance with making this case a class action. However, his motion to appoint counsel is primarily based upon his ability, or lack thereof, to prepare or present his case while at the Midland County Jail - a location at which plaintiff is no longer residing.

D. Plaintiff's Address/Contact Information

By the time of his July 3, 2014 filing (Doc. Ent. 9), plaintiff was incarcerated at the MDOC's Muskegon Correctional Facility (MCF) in Muskegon County. At the time of his latest July 22, 2014 filing, plaintiff was still incarcerated at MCF. Doc. Ent. 11. Although MCF is plaintiff's address of record, as noted above, LaBreck is currently incarcerated at the MDOC's Macomb Correctional Facility (MRF) in Macomb County.

Thus, LaBreck is reminded of his responsibility to keep the Court apprised of his current address/contact information and shall be required to file a change of address/contact information with this Court.

E. Order

Upon consideration, no later than October 7, 2014, plaintiff LaBreck SHALL provide this Court with further means to identify defendant Jane Doe Jail Nurse, such as a first and/or last name, a copy of a medical record bearing her name, etc. Otherwise, the undersigned will recommend dismissal of plaintiff's claims against this defendant.

Also, plaintiff's June 12, 2014 motion to appoint counsel (Doc. Ent. 7) is DENIED WITHOUT PREJUDICE to renewal if this case survives dispositive motion practice or if other circumstances warranting the appointment of counsel arise.

Furthermore, plaintiff SHALL, within ten (10) days of the date of this order, file a notice

of change of address/contact information.

Finally, the Clerk of the Court SHALL serve a copy of this order upon plaintiff at both the Muskegon Correctional Facility (MCF) and the Macomb Correctional Facility (MRF).

IT IS SO ORDERED.

The attention of the parties is drawn to Fed. R. Civ. P. 72(a), which provides a period of fourteen (14) days from the date of receipt of a copy of this order within which to file objections for consideration by the district judge under 28 U.S.C. § 636(b)(1).

Dated: September 17, 2014

s/Paul J. Komives
PAUL J. KOMIVES
UNITED STATES MAGISTRATE JUDGE